



House of Representatives

General Assembly

File No. 45

January Session, 2007

Substitute House Bill No. 6956

House of Representatives, March 13, 2007

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS AND POLICE OFFICERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) (a) As used in this
2 section:

3 (1) "Body fluids" means blood and body fluids containing visible
4 blood and other body fluids to which universal precautions for
5 prevention of occupational transmission of blood-borne pathogens, as
6 established by the National Centers for Disease Control, apply. For
7 purposes of potential transmission of meningococcal meningitis or
8 tuberculosis, the term "body fluids" includes respiratory, salivary and
9 sinus fluids, including droplets, sputum and saliva, mucous and other
10 fluids through which infectious airborne organisms can be transmitted
11 between persons.

12 (2) "Police officer or firefighter" means a local or state police officer,

13 a state or local firefighter or an active member of a volunteer fire
14 company or fire department engaged in volunteer duties who, in the
15 course of employment, runs a high risk of occupational exposure to
16 hepatitis, meningococcal meningitis or tuberculosis.

17 (3) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A,
18 hepatitis non-B, hepatitis C or any other strain of hepatitis generally
19 recognized by the medical community.

20 (4) "High risk of occupational exposure" means risk that is incurred
21 because a person subject to the provisions of this section, in
22 performing the basic duties associated with such person's
23 employment:

24 (A) Provides emergency medical treatment in a non-health-care
25 setting where there is a potential for transfer of body fluids between
26 persons;

27 (B) At the site of an accident, fire or other rescue or public safety
28 operation, or in an emergency rescue or public safety vehicle, handles
29 body fluids in or out of containers or works with or otherwise handles
30 needles or other sharp instruments exposed to body fluids; or

31 (C) Engages in the pursuit, apprehension or arrest of law violators
32 or suspected law violators and, in performing such duties, may be
33 exposed to body fluids.

34 (5) "Occupational exposure", in the case of hepatitis, meningococcal
35 meningitis or tuberculosis, means an exposure that occurs during the
36 performance of job duties that may place a worker at risk of infection.

37 (b) Any police officer or firefighter who suffers a condition or
38 impairment of health that is caused by hepatitis, meningococcal
39 meningitis or tuberculosis that requires medical treatment, and that
40 results in total or partial incapacity or death shall be presumed to have
41 sustained such condition or impairment of health in the course of
42 employment and shall be entitled to receive workers' compensation
43 benefits pursuant to chapter 568 of the general statutes, unless the

44 contrary is shown by competent evidence, provided:

45 (1) The police officer or firefighter completed a physical
46 examination, including a tuberculosis skin test, on entry into police or
47 fire service that failed to reveal any evidence of such condition or
48 impairment of health.

49 (2) The police officer or firefighter presents a written affidavit
50 verifying by written declaration that, to the best of his or her
51 knowledge and belief:

52 (A) In the case of meningococcal meningitis, in the ten days
53 immediately preceding diagnosis, the police officer or firefighter was
54 not exposed, outside the scope of employment, to any person known
55 to have meningococcal meningitis or known to be an asymptomatic
56 carrier of the disease.

57 (B) In the case of tuberculosis, in the period of time since the police
58 officer's or firefighter's last negative tuberculosis skin test, he or she
59 has not been exposed, outside the scope of employment, to any person
60 known by the police officer or firefighter to have tuberculosis.

61 (c) Each employer shall maintain a record of any known or
62 reasonably suspected exposure of any police officer or firefighter in its
63 employ to the diseases described in this section and shall immediately
64 notify the employee of such exposure. A police officer or firefighter
65 shall file an incident or accident report with his or her employer of
66 each instance of known or suspected occupational exposure to
67 hepatitis infection, meningococcal meningitis or tuberculosis.

68 Sec. 2. Section 7-433c of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2007*):

70 (a) Notwithstanding any provision of chapter 568 or any other
71 general statute, charter, special act or ordinance, [to the contrary,] in
72 the event a uniformed member of a paid municipal fire department or
73 a regular member of a paid municipal police department who (1)
74 began such employment prior to July 1, 1996, and (2) successfully

75 passed a physical examination on entry into such service, which
76 examination failed to reveal any evidence of hypertension or heart
77 disease, suffers either off duty or on duty any condition or impairment
78 of health caused by hypertension or heart disease resulting in [his
79 death or his] such member's death or temporary or permanent, total or
80 partial disability, [he or his] such member or such member's
81 dependents, as the case may be, shall receive from [his] such member's
82 municipal employer compensation and medical care in the same
83 amount and the same manner as that provided under chapter 568 if
84 such death or disability was caused by a personal injury which arose
85 out of and in the course of [his] such member's employment and was
86 suffered in the line of duty and within the scope of [his] such member's
87 employment, and from the municipal or state retirement system under
88 which [he] such member is covered, [he or his] such member or such
89 member's dependents, as the case may be, shall receive the same
90 retirement or survivor benefits which would be paid under said
91 system if such death or disability was caused by a personal injury
92 which arose out of and in the course of [his] such member's
93 employment, and was suffered in the line of duty and within the scope
94 of [his] such member's employment. If successful passage of such a
95 physical examination was, at the time of [his] employment, required as
96 a condition for such employment, no proof or record of such
97 examination shall be required as evidence in the maintenance of a
98 claim under this section or under such municipal or state retirement
99 systems. The benefits provided by this section shall be in lieu of any
100 other benefits which such [policeman or fireman or his] member or
101 such member's dependents may be entitled to receive from [his] such
102 member's municipal employer under the provisions of chapter 568 or
103 the municipal or state retirement system under which [he] such
104 member is covered, except as provided by this section, as a result of
105 any condition or impairment of health caused by hypertension or heart
106 disease resulting in [his death or his] such member's death or
107 temporary or permanent, total or partial disability. As used in this
108 section, the term "municipal employer" shall have the same meaning
109 and shall be defined as said term is defined in section 7-467.

110 [(b) Notwithstanding the provisions of subsection (a) of this section,
111 those persons who began employment on or after July 1, 1996, shall not
112 be eligible for any benefits pursuant to this section.]

113 (b) For the purpose of adjudication of claims for the payment of
114 benefits under the provisions of chapter 568 to a uniformed member of
115 a paid municipal fire department or a regular member of a paid
116 municipal police department who began such employment on or after
117 July 1, 1996, any condition of impairment of health caused by
118 hypertension or heart disease occurring to such member while such
119 member is on duty and acting within the scope of his employment for
120 such member's municipal employer that results in death or temporary
121 or permanent total or partial disability shall be presumed to have been
122 suffered in the line of duty and within the scope of such member's
123 employment, unless the contrary is shown by competent evidence,
124 provided such member completed a physical examination on entry
125 into such employment that failed to reveal any evidence of
126 hypertension or heart disease.

127 Sec. 3. (NEW) (*Effective October 1, 2007*) Notwithstanding any
128 provision of the general statutes, any state or local firefighter, active
129 member of a volunteer fire company or fire department engaged in
130 volunteer duties who is diagnosed with multiple myeloma, non-
131 Hodgkins lymphoma, prostate or testicular cancer resulting in total or
132 partial disability or death to such firefighter shall be presumed to have
133 sustained such cancer in the course of employment and shall be
134 entitled to receive workers' compensation benefits pursuant to chapter
135 568 of the general statutes, unless the contrary is shown by a
136 preponderance of the evidence, provided:

137 (1) The firefighter completed a physical examination on entry into
138 such employment that failed to reveal any evidence of such cancer;

139 (2) The firefighter was employed as a firefighter for five or more
140 years at the time the cancer is discovered; and

141 (3) The firefighter establishes that he or she regularly responded to

142 the scene of fires or fire investigations during some portion of his or
143 her employment as a firefighter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	7-433c
Sec. 3	<i>October 1, 2007</i>	New section

LAB *Joint Favorable Subst. C/R*

PS

PS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Dept. of Administrative Services - Workers' Comp. Claims; Public Safety, Dept.	GF - Cost	Significant	Significant

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	STATE MANDATE - Cost	Significant	Significant

Explanation

This bill establishes three rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain firefighters and police officers while performing their duties:

1. municipal police officers, state police and firefighters who contract hepatitis, meningitis, or tuberculosis (TB);
2. municipal police and firefighters, hired after July 1, 1996, who are on duty and suffer from impaired health due to hypertension or heart disease; and
3. firefighters who suffer from certain types of cancer.

Hepatitis, Meningitis, or Tuberculosis (TB)

This bill establishes a rebuttable presumption that police officers or firefighters who contract hepatitis, meningitis, or tuberculosis got the condition from the workplace and are entitled to workers' compensation benefits.

The fiscal impact to the state and municipalities could be potentially significant. Workers' compensation liability for hepatitis, meningitis, or tuberculosis is estimated to be as high as \$750,000 - \$2,500,000 per claim, depending on the age of the claimant and the severity of the disease.

It is not known how many police officers or firefighters contract these diseases. In 2005, there were 8 claims concerning these diseases filed with the Workers' Compensation Commission from the population of all public and private sector employees in the state.¹ This provision of the bill applies to approximately 35,600 police officers and firefighters.

Heart and Hypertension

The bill creates a rebuttable presumption that a health impairment resulting from hypertension or heart disease occurring to a paid municipal firefighter or police officer while on duty and acting within the scope of his employment is compensable under the Workers' Compensation Act. This provision applies to paid municipal firefighters or police officers who previously passed a physical that revealed no evidence of hypertension or heart disease and were hired after July 1, 1996.

There are approximately 4,135 paid municipal firefighters in the state and 7,976 certified municipal police officers. This provision of the bill would impact at least 2,500 firefighters and police officers hired after July 1, 1996, along with all future hires.

There were 31 heart and hypertension claims (under 7-433c) filed in 2005 by paid municipal police and firefighters hired before July 1, 1996.

It is anticipated that this provision will increase the number of claims filed under 7-433c. To the extent that filing a claim under 7-433c

¹ In 2004, 8 claims involving these diseases were filed with the Workers' Compensation Commission. In 2003, there were 18 claims filed.

increases the likelihood of an award—because the burden of proof has shifted to the employer to refute the claim—there will be increased costs to municipalities. These costs may be significant as a single heart and hypertension claim may exceed \$1 million over the life of the claim.

Cancer

This bill also creates a presumption that a state, municipal, or volunteer firefighter stricken with certain types of cancer contracted the disease due to exposure on the job. The fiscal impact of this provision could be potentially significant to the state and municipalities as a single cancer claim may exceed \$1 million over the life of the claim.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6956*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE
FOR FIREFIGHTERS AND POLICE OFFICERS.*****SUMMARY:**

This bill establishes the three rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain public safety employees through their work. The type of employee and the presumptive ailment for each are:

1. municipal and state police and firefighters and volunteer firefighters who contract hepatitis, meningitis, or tuberculosis (TB);
2. municipal police and firefighters, hired after July 1, 1996, who are on duty and suffer from impaired health due to hypertension or heart disease; and
3. municipal and state firefighters and volunteer firefighters who suffer from the following types of cancer: (a) multiple myeloma, (b) non-Hodgkin's lymphoma, (c) prostate, or (d) testicular.

To fall under the bill's authority, the ailments must result in lost work time due to total or partial incapacity or death. The presumption that any of these ailments is due to the occupation is rebuttable, meaning it is presumed to be job related unless the employer provides sufficient evidence that it is not. Under current law, any of these ailments are compensable, but the burden of proof is on the employee to demonstrate the illness is job related.

EFFECTIVE DATE: October 1, 2007

HEPATITIS, MENINGITIS, OR TUBERCULOSIS***Presumption***

The bill provides that a firefighter, police officer, or volunteer firefighter who suffers from one of these diseases and either dies or is totally or partially incapacitated must be presumed to have sustained the ailment from the job unless (1) competent evidence shows the contrary or (2) the employee fails to meet one of the medical test or administrative requirements stated below. By law, volunteer firefighters are treated as employees, for workers compensation purposes, of the town where they volunteer.

To be included under the presumption, the employee or volunteer must have completed a physical exam, including a TB skin test, upon entry into the service, that failed to reveal evidence of any of the three diseases. Furthermore, an employee must present in cases of (1) meningitis, a written affidavit that in the 10 days prior to diagnosis, he or she was not exposed outside of work to anyone having or carrying the disease and (2) TB, a written affidavit that he was not exposed outside of work to anyone known to have the disease since the last negative TB skin test.

Required Records

Employees must file a report with their employer about each known or suspected occupational exposure to hepatitis, meningococcal meningitis, or TB.

Employers must maintain a record of known or reasonably suspected cases of exposure and must notify employees of such exposures immediately.

Occupational Risk of Exposure

The bill applies to municipal and state police and firefighters and volunteer firefighters who, in the course of their employment, run a high risk of occupational exposure to hepatitis, meningitis, or tuberculosis.

“High risk of occupational exposure” means a risk incurred because a person, in performing his basic duties:

1. provides emergency medical treatment outside of a healthcare setting where there is a potential for transferring body fluids;
2. handles body fluids, needles, or other sharp instruments exposed to body fluids at the site of an accident, fire, or other rescue or safety operation or in an emergency rescue or public safety vehicle; or
3. may be exposed to body fluids while engaged in the pursuit, apprehension, or arrest of law or suspected law violators.

“Body fluids” are blood, fluids containing blood, and other body fluids for which universal precautions apply. For purposes of meningococcal meningitis or tuberculosis, they include respiratory, salivary, and sinus droplets that can transmit infectious airborne organisms.

The bill defines hepatitis as hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized in the medical community.

HEART AND HYPERTENSION

The bill creates a presumption that an ailment caused by hypertension or heart disease that occurs while a paid municipal firefighter or police officer is on duty and acting within the scope of his or her employment is suffered in the line of duty and is compensable under workers’ compensation.

It applies to those hired after July 1, 1996 and only in cases where the ailment caused by hypertension or heart disease results in lost work time due to temporary or permanent total or partial disability or death. The employee must have previously passed a physical that revealed no evidence of hypertension or heart disease. Under current law, any firefighter or police officer hired after July 1, 1996 must prove the hypertension or heart disease was caused by his work and not due to other causes. (By law, municipal police officers and firefighters hired before to July 1, 1996 and out of work due to heart or

hypertension-related illness are given benefits equivalent to workers' compensation benefits without having to demonstrate that the ailment is job related.)

Under the bill, the presumption can be overcome if competent evidence shows that the illness was not contracted through firefighting.

CANCER

The bill also creates a presumption that a state or municipal firefighter or volunteer firefighter stricken with multiple myeloma, non-Hodgkin's lymphoma, prostate, or testicular cancer contracted the disease due to the job. The firefighter must (1) have previously passed a physical upon entry into the occupation that revealed no evidence of these cancers, (2) have been employed as a firefighter for at least five years, and (3) establish that he or she regularly responded to fire scenes or investigations during some part of his or her career. Also, the disease must result in total or partial disability or death to trigger the presumption.

Under the bill, the presumption can be overcome if a preponderance of evidence shows that the illness was not contracted through firefighting.

By law, volunteer firefighters are considered employees of the town for which they volunteer for workers' compensation purposes.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 9 Nay 1 (02/13/2007)

Public Safety and Security Committee

Joint Favorable

Yea 14 Nay 5 (03/01/2007)